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4 Attorney for Debtor

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CLERK, U.S. BANKRUPTCY CT.  
EASTERN DIST. OF CA.  
SACRAMENTO, CA

5 IN THE UNITED STATES BANKRUPTCY COURT  
6 IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA  
7 SACRAMENTO DIVISION

8 In re:

9 Edward Bjorum

11 Debtor.

) Case No.: 99-21357-A-13

) **Opposition to Harvey's Resort Hotel and  
Casino's Objection to Confirmation of  
Chapter 13 Plan**

) MCN: RJY-01  
) Date: May 4, 1999  
) Time: 2:00 p.m.  
) Courtroom: 28

14 **TO ALL PARTIES IN INTEREST:**

15 COMES NOW DEBTOR, EDWARD BJORUM, by and through his attorney of record,  
16 Philippa Lauben, and opposes the Harvey's Resort Hotel and Casino's (hereinafter referred to as  
17 "Creditor") Objection to Confirmation. Creditor argues that Debtor's plan is not his best efforts,  
18 that the plan is not in the best interest of Creditors, the Plan has not been proposed in good faith,  
19 and that the Debtor lacks regular income.

20 Debtor responds as follows:

- 21 1. Debtor objects to Creditor's objection to confirmation, as Debtor was not provided  
22 sufficient notice to respond, as required under the Federal Bankruptcy Code. Debtor  
23 received a copy of Creditors Objection on April 22, 1999. The Proof of Service to the  
24 attached Motion was dated April 21, 1999. The Hearing on the above entitled motion  
25 is scheduled for May 4, 1999. This provides, at most, 13 days notice to Debtor,  
26 which is insufficient notice under the Code. However Debtor chooses to offer the  
27 following in response to the objection brought by Creditor.  
28

- 1           2. Debtor's plan is not his best efforts: Creditor argues that Debtor's expenses are too  
2           high and his income is incorrectly stated in the schedules. This is very vague.  
3           Creditor does not provide any information as to which expenses stated are deemed  
4           too high. Upon review of the expenses, Debtor does not believe that there are any  
5           expenses which are too high, and has provided the Court with a list of his minimal  
6           requirements for support and maintenance. As to the potential income of Debtor,  
7           Debtor has resolved this issue to the best of his ability. He has provided to the Court  
8           a statement regarding new employment and total income for both of his current jobs.  
9           Debtor has further amended his schedules to reflect his new employment.  
10  
11  
12          3. The Plan is not in the best interest of Creditors: Creditor argues that Debtor's plan  
13          fails liquidation. Again, Creditor offers only speculation as to why the plan fails  
14          liquidation, but suggests that Debtor's home is worth more than listed. Creditor also  
15          suggests that Debtor has hidden assets. Creditor provides no documentation as to any  
16          of these arguments. As to Debtor's residence, if Debtor's home were worth more  
17          than listed, Debtor could modify his plan to use his homestead exemption, which  
18          could allow him as much as \$50,000 in exemptions. Switching the Exemptions from  
19          703's to 704's would still protect all of Debtor's assets, except the claim against the  
20          Business Venture. Debtor reiterates that the grounds for Creditor's objections are  
21          speculative and therefore impossible to respond to, however, even were Creditor to  
22          pursue this avenue at a later date, Debtor affirms that his filed schedules are accurate.  
23          If there were some discrepancy, given the nature of the unused exemptions, Creditor  
24          would be unable to successfully argue that the plan fails liquidation. As to Creditor's  
25          speculation that Debtor has hidden assets, Debtor refers Creditor to his schedules.  
26  
27  
28

1 Debtor has listed all of his assets. Creditor needs to provide documentation to  
2 support this speculation and to allow Debtor to properly respond. To suggest that  
3 there are assets which are not listed, but not state what or where those assets are, does  
4 not provide sufficient notice to Debtor to respond to the objection. Further, the  
5 objection should not be allowed as it is only speculative.  
6

7 4. The Plan has not been proposed in good faith: Creditor again argues that there are  
8 hidden assets. Debtor refers the Court to argument Number 3. This is purely  
9 speculative and as such provides no notice to Debtor as to what the objection is based  
10 on. Further, without some form of documentation as to the "hidden assets", the  
11 objection can not be allowed by the Court. Furthermore, Creditor argues that Debtor  
12 should not be able to discharge an obligation in a Chapter 13, that would be non-  
13 dischargeable in a Chapter 7. Debtor responds with the suggestion that Creditor take  
14 his argument to Congress. Current Bankruptcy Legislation allows just this sort of  
15 discharge, and in fact is intended to protect parties such as the Debtor from Creditors  
16 such as Harvey's. Any objection based on the inappropriateness of the current  
17 Bankruptcy Code should be taken up with Congress, as the 9<sup>th</sup> Circuit has  
18 consistently upheld this type of discharge.  
19  
20  
21

22 5. The Debtor lacks regular income: This argument was addressed in paragraph 2.  
23 However, Debtor has provided a statement regarding his income, has amended his  
24 income and expenses to reflect his new employment, and provided this information to  
25 the Trustee at the continued 341 Meeting of the Creditors on April 8, 1999.  
26

27 //

28 //

WHEREFORE, Debtor requests that the Court deny Creditor's Objection to Confirmation, and allow Debtor's plan to proceed with Confirmation.

Dated this 26<sup>th</sup> day of April, 1999

Philippa Lauben  
Attorney for Debtor

Good Morning!

My Wages @ Robertson  
Historic Cabinets are \$800 per wk  
and will net me approximately  
\$620 per wk

The band will gross \$260 per wk  
and will net me approximately  
170 per wk

The Total Being \$880  
per wk

Robertson Cabinet & Fixtures

16 A. Kit Bat Dk

Carson City NV

89707

Thank Ed Bjorkum

Pls Any new expenses i.e. Health  
Insurance will be taken out  
of my check from Robertson

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

In Re } Case No.00-21357-A-13  
Edward Bjorum }  
 }  
 }  
 }  
 }  
 }  
Debtor }  
\_\_\_\_\_ }

Attached hereto are the following amended documents (check all that apply):

- { } Petition  
{ } Creditor Matrix  
{ X} Schedules (circle appropriate letters) I J  
A B C D E F G H  
{ } Summary of Schedules  
{ } Statement of Intention  
{ } Statement of Financial Affairs  
{ } List of 20 Largest Unsecured Creditors  
{ } List of Equity Security Holders  
{ } Other:\_\_\_\_\_

Purpose of amendment (check all that all apply):

- { } To add creditors or to correct creditor names and addresses \$20.00 filing fee: { } required { } not required  
{ } To add or correct information other than creditor names and addresses (please specify):\_\_\_\_\_  
{ } Other:\_\_\_\_\_

Dated: 4-26-99

Attorney's Signature: \_\_\_\_\_  
Philippa Lauben #186153  
7996 California Avenue #D  
Fair Oaks, CA 95628

DECLARATION BY DEBTOR

I(WE), the undersigned debtor(s), hereby declare under penalty of perjury that the information set forth in the amendment(s) attached hereto, consisting of 4 pages, is true and correct to the best of my (our) information and belief.

Dated:

\_\_\_\_\_  
Debtor's Signature

\_\_\_\_\_  
Joint Debtor's Signature

# Amended Schedule I - Current Income Of Individual Debtor(s)

Debtor's Marital Status: <b>DIVORCED</b>	<b>DEPENDENTS OF DEBTOR AND SPOUSE</b>		
Debtor's Age: <b>52</b> Spouse's Age:	<b>NAMES</b> <b>NONE</b>	<b>AGE</b>	<b>RELATIONSHIP</b>
<b>EMPLOYMENT:</b>	<b>DEBTOR</b>	<b>SPOUSE</b>	
Occupation	<b>CONTRACTOR</b>		
How long employed			
Name and Address of Employer	<b>ROBERTSON CABINET &amp; FIXTURES</b> <b>16 A KIT KAT DRIVE</b> <b>CARSON CITY, NV 89707</b>		

Income: (Estimate of average monthly income)	DEBTOR	SPOUSE
Current monthly gross wages, salary, and commissions (pro rate if not paid monthly)	\$ 3,440.00	\$
Estimated monthly overtime	\$ 0.00	\$
<b>SUBTOTAL</b>	<b>\$ 3,440.00</b>	<b>\$</b>
<b>LESS PAYROLL DEDUCTIONS</b>		
a.) Payroll taxes and social security	\$ 774.00	\$
b.) Insurance	\$ 225.00	\$
c.) Union dues	\$ 0.00	\$
d.) Other		
<b>SUBTOTAL OF PAYROLL DEDUCTIONS</b>	<b>\$ 999.00</b>	<b>\$</b>
<b>TOTAL NET MONTHLY TAKE HOME PAY</b>	<b>\$ 2,441.00</b>	<b>\$</b>
Regular income from operation of business, profession or farm (attach detailed statement)	\$ 1,118.00	\$
Income from real property	\$ 0.00	\$
Interest and dividends	\$ 0.00	\$
Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above.	\$ 0.00	\$
Social security or other government assistance (Specify)	\$ 0.00	\$
Pension or retirement income	\$ 0.00	\$
Other monthly income (Specify)	\$ 0.00	\$
<b>TOTAL MONTHLY INCOME</b>	<b>\$ 3,559.00</b>	<b>\$</b>

TOTAL COMBINED MONTHLY INCOME \$ 3,559.00

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

NONE

# Amended Schedule J - Current Expenditures Of Individual Debtor(s)

[ ] Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home) \$ 1,150.39  
Are real estate taxes included? [ ] Yes [x] No  
Is property insurance included? [ ] Yes [x] No

Utilities: Electricity and heating fuel \$ 85.00  
Water and sewer \$ 30.00  
Telephone \$ 200.00  
Other: CABLE TV \$ 32.00  
GARBAGE \$ 44.52

Home Maintenance (Repairs and upkeep) \$ 0.00  
Food \$ 350.00  
Clothing \$ 60.00  
Laundry and dry cleaning \$ 80.00  
Medical and dental expenses \$ 90.00  
Transportation (not including car payments) \$ 175.00  
Recreation, clubs and entertainment, newspapers, magazines, etc. \$ 0.00  
Charitable contributions \$ 0.00  
Insurance (not deducted from wages or included in home mortgage payments):  
Homeowner's or renter's \$ 0.00  
Life \$ 0.00  
Health \$ 0.00  
Auto \$ 80.09  
Other: \$ 0.00

Taxes (not deducted from wages or included in home mortgage payments)  
(Specify) VEHICLE \$ 25.00  
Installment payments (In chapter 12 & 13 cases, do not list payments to be included in the plan)  
Auto \$ 0.00  
Other: \$ 0.00

Alimony, maintenance, and support paid to others \$ 0.00  
Payments for support of additional dependents not living at your home \$ 0.00  
Regular expenses from operation of business, profession, or farm (attach stmt) \$ 0.00  
Other: HAIRCUTS \$ 20.00  
Overnight in Nevada \$ 150.00  
Self-Employment Taxes \$ 387.00

TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)

\$ 2,959.00



## Schedule J - Current Expenditures Of Individual Debtor(s)

(FOR CHAPTER 12 and 13 DEBTORS ONLY)

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$	3,559.00
B. Total projected monthly expenses	\$	2,959.00
C. Excess income (A minus B)	\$	600.00
D. Total amount to be paid into plan <u>Monthly</u>	\$	600.00

Good Morning!

My Wages @ Robertson  
Furniture Cabinets are \$80 per wk  
and will net me approximately  
\$20 per wk

The band will gross \$260 per wk  
and will net me approximately  
120 per wk

The Total Being \$880  
per wk

Robertson Cabinet & Fixtures  
16 A. Kot Kat Dr.  
Carson City NV  
89307

Thanks Ed Bjornson

Pls Any new expenses, i.e. Health  
Insurance will be taken out  
of my check from Robertson

1 IN THE UNITED STATES BANKRUPTCY COURT  
2 IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA  
3 SACRAMENTO DIVISION

4 In re:

5 Edward Bjorum

6 Debtor.  
7

) Case No.: 99-21357-A-13

) **Proof of Service**

) Date: May 4, 1999

) Time: 2:00 p.m.

) Courtroom: 28

8  
9 CERTIFICATE OF SERVICE

10 The undersigned declares as follows:

11 That I am a citizen of the United States, over the age of 18 years, and not a party to the  
12 within cause. My business address is 7996 California Avenue, Suite D, Fair Oaks, Ca 95628.

13 That on April 26, 1999, I served the **Amendments of Schedles I and J** by depositing a true  
14 copy thereof enclosed in a sealed envelope with the postage thereon full prepaid, in the United  
15 States mail at Fair Oaks, CA 95628. Addressed as follows:

16 Office of the United States Trustee  
17 501 "I" Street  
18 Suite 7-500  
19 Sacramento, Ca 95814-2322

20 Lawrence J. Loheit  
21 P.O. Box 1858  
22 Sacramento, Ca 95812

23 Edward H. Bjorum  
24 1908 Mojave St.  
25 Tahoe Paradise, Ca 96155

26 I declare under penalty of perjury that the foregoing is true and correct, and that this  
27 declaration was executed at Fair Oaks, California.  
28

  
DECLARANT

Proof of Service

PHILIPPA LAUBEN 186153  
ATTORNEY AT LAW  
7996 CALIFORNIA AVENUE  
FAIR OAKS, CA 95628